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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,628	04/07/2000	Richard Tad Lepman	Berk-37617	2145
7590	01/26/2004		EXAMINER	
Scott W Kelley Kelly Bauersfeld Lowry & Kelly LLP 6320 Canoga Avenue Suite 1650 Woodland Hills, CA 91367			RUDY, ANDREW J	
			ART UNIT	PAPER NUMBER
			3627	
DATE MAILED: 01/26/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/545,628	LEPMAN, RICHARD TAD	
	Examiner Andrew Joseph Rudy	Art Unit 3627	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>08 December 2003</u> .			
2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.			
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims			
4) <input checked="" type="checkbox"/> Claim(s) <u>1-43</u> is/are pending in the application.			
4a) Of the above claim(s) <u>16-43</u> is/are withdrawn from consideration.			
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.			
6) <input checked="" type="checkbox"/> Claim(s) <u>1-15</u> is/are rejected.			
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.			
8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.			
Application Papers			
9) <input type="checkbox"/> The specification is objected to by the Examiner.			
10) <input checked="" type="checkbox"/> The drawing(s) filed on <u>08 December 2003</u> is/are: a) <input type="checkbox"/> accepted or b) <input checked="" type="checkbox"/> objected to by the Examiner.			
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).			
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).			
11) <input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.			
Priority under 35 U.S.C. §§ 119 and 120			
12) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).			
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of:			
1. <input type="checkbox"/> Certified copies of the priority documents have been received.			
2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.			
3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).			
* See the attached detailed Office action for a list of the certified copies not received.			
13) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.			
a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.			
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.			
Attachment(s)			
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .	
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)	
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .		6) <input type="checkbox"/> Other: _____	

DETAILED ACTION

Response to Amendment

Election/Restrictions

1. Claims 1-43 are pending. Applicant's REMARKS received December 8, 2003 regarding the Restriction Requirement are noted. However, the ARGUMENTS that claim 1 is generic do not address the remaining independent claims 16 and 30 in relationship to the species noted. Thus, claims 16-43 are still withdrawn from consideration.

Drawings

2. The drawings were received on December 8, 2003. These drawings are not acceptable. The drawings do not correspond to the descriptive portion of the specification. The proposed Amendment to the descriptive portion of the specification does not cure the issue. For example, proposed Figure 2, element 22, is not consistent with the page 5, line 8 of the proposed amendment. Also, Figures 4, 5, element 42, is not consistent with the page 5, line 18 are not consistent with the proposed amendment. Likewise, Figures 5, element 50, is not consistent with the page 5, line 23, are not consistent with the proposed amendment. Further, Figure 7, element 70, is not consistent with the page 11, line 9 are not consistent with the proposed amendment. Other discrepancies appear. Correction is required.

In order to avoid abandonment, the drawing informalities noted in Paper No. 5, mailed on August 6, 2003, must now be corrected. Correction can only be effected in the manner set forth in the above noted paper.

3. The proposed amendment will not be entered. Applicant is requested to provide a substitute specification for the proposed amendment as the sheer volume of the proposed changes dictates such. Also, Applicant is cautioned that support in the originally filed specification for the proposed specification in juxtaposition to the drawing figures must be present.
4. The DECLARATION filed on December 8, 2003 under 37 CFR 1.131 is sufficient to overcome the Curley reference. Thus, the rejection from Paper No. 5 mailed August 6, 2003 is withdrawn pursuant to Applicant's Response received December 8, 2003.

Claim Rejections - 35 USC § 103

5. Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price et al. "College Accounting, Seventh Edition" (hereafter "Price")

Price discloses, e.g. pgs 28-41, 529,531, 966-982 (Fig. 27-5), a method measuring profit based on the factors of net interest revenue, other revenues (Fig. 27-5, line 4, "Operating Revenues"), direct expenses (Fig. 27-5, line 22, "Direct Expenses"), indirect expenses (Fig. 27-5, line 30, "Indirect Expenses"), and risk (Fig. 27-5, line 6, "Less Sales Returns and Allowances"), all set up to take advantage of flexible business rules.

Official Notice is taken that performing financial processing using computer software is common knowledge in the art.

To have provided a method of performing financial processing for an account using software for a computer measuring profit based on the factors of net interest revenue, other revenues, direct expenses, indirect expenses and risk, all set up to take advantage of flexible business rules the business rules to calculate known variations of one of the factors, e.g. net interest revenue, would have been obvious to one of ordinary skill in the art. Doing such would incorporate common knowledge data along with common knowledge software.

6. A further pertinent reference of interest is noted on the attached PTO-892.

7. Applicant's Information Disclosure Statement has been reviewed. Note attached PTO-1449.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808.

The examiner can normally be reached on Tuesday thru Friday, 7:30 a.m until 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A handwritten signature in black ink, appearing to read "Andrew Joseph Rudy".